Radhakishan S. Ladda
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Date: 2019.06.10 15:43:00 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS GENERAL & INHERENT JURISDICTION

FOREIGN ADOPTION PETITION No. 16 of 2019
WITH
JUDGE'S ORDER No. 95 of 2019

MSWC Asha Sadan ..Petitioner
Vs
Carlos Abela & Maruska
Abela Cremona (Prop.Adopters)
and Ayush @ Isaac AY ..Prospective Adoptive Parents.

Smt. Lalita Jaya Raj for the Petitioner.
Mr. O. Harendran, Scrutiny Officer of ICSW

CORAM : B. P. COLABAWALLA, J.
DATED :- 6th June, 2019.

P.C. :-

1. This Foreign Adoption Petition is for the adoption of a male minor Ayush borne on 10th March, 2017. The couple who proposed to adopt Ayush are residents and citizens of Malta. The representation of Indian Council of Social Welfare (ICSW) is taken on record and marked "X" for identification.

2. The said minor Ayush was admitted to the petitioner institution on 14th March, 2017 as per the order of the Child Welfare

Committee, Mumbai dated 16th March, 2017 under the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. The admission as well as extension orders dated 25th May, 2017 and 24th May, 2018 are on record of this Court.

3. Even the biological mother has executed a Deed of Surrender before the Child Welfare Committee, Mumbai on 16th March, 2017 for the minor's permanent rehabilitation. The said Deed of Surrender is in the possession of the Child Welfare Committee as well as the petitioner institution.

4. After making due enquiry under Section 38 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the Child Welfare Committee, Mumbai has declared that the proposed minor Ayush is a child, legally free for Adoption as on 5th June, 2017. A Certificate declaring the child free for adoption is also on the record of this Court. Even the undertaking / affidavit by the authorized representative of the petitioner is on record.

5. The Central Adoption Resource Authority (CARA) has also given its No Objection Certificate dated 3rd May, 2019 to the aforesaid adoption as per Adoption Regulations, 2017 and Article 17

(c) of the Hague Convention on the Protection of Children and Cooperation in respect of Inter-Country Adoption, 1993. This is also taken on record of this Court.

6. As far as the proposed Adopters are concerned, they are residing at 86, II Girna, FL 3 Triq I-Imriekeb, Marsaskala, Malta and are aged about 29 years and 40 years respectively. They have been married for the past 3 ½ years (24th October, 2015) with no biological children. The second proposed Adopter was previously married on 24th November, 2001 which was annulled on 8th June, 2011 with no biological children. A copy of the Annulment Order is also placed on the record of this Court. The Letters of Motivation by the proposed Adopters, as to why they wish to adopt the child is also on the record of this Court. They are dated 11th April, 2019 and 12th April, 2019 respectively. Along with this, the Passport copies and Joint Photographs of Family of the proposed Adopters are also on record.

7. The Health Reports dated 12th April, 2019 of the proposed Adopters state that the health of the prospective adoptive parents does not disqualify them in parenting a child in any way HIV I and II and Hepatitis B Test reports of both the Adopters

certify the case as Negative". These reports are also on record.

8. As far as the financial condition of the proposed Adopters is concerned, the Financial Statement of the proposed adoptive father is on record at Exh. "E". The Financial Statement shows that he earns approximately 22,610 Euros. He also has a residence valued at 2,50,000 Euros and a Savings Accounts with 32,000 Euros. As far as the proposed adoptive mother is concerned, she is presently a home maker. Their Income-Tax Certificates for the year 2016-17 and 2017-2018 are also on record. Further, the Child Care Arrangement Plan by the prospective adoptive parents is also on record at page 78. It has been stated considering that the adoptive mother is a house wife, she shall be taking care of the child . The Child's Security letter from the proposed adoptive parents to take care of the Child in case of any unforeseen mishap to the said proposed Adopters has also been annexed to the petition and is on record at page 80.

9. The Home Study Report dated 20th April, 2018 issued by the Authorities of the Agenzija APPOGG Malta is on record and states, that the applicants were very welcoming and respectful couple. They have a good family background, having loving and

supportive parents who hold good values. They are happily married and have a stable and strong relationship and are highly committed and dedicated to each other. They are mature, responsible and also share responsibilities and take decisions together. After all this assessment, the social worker observed that the couple is very eager to adopt and believes that they can provide a good and stable family environment to a child and also have the necessary space at home for an adopted child. The social worker therefore recommended them for adoption of a child up to 3 years.

10. The approvals from the Ministry for the Family, Children's Rights and Social Solidarity, Malta is on record along with the post card size photograph of the minor Ayush. The medical examination report of the minor Ayush dated 22nd January, 2019 states that Ayush is a Special Needs Child (Congenital Heart Disease). The proposed Adopters have countersigned this Report. A letter of Acceptance dated 12th April, 2019 for Special Needs child from the proposed adopters is on record. The HIV report of the proposed minor dated 9th January, 2019 certifies the case as Non-reactive.

11. As regards change of name the proposed adoptive

parents desire that the minor Ayush be renamed as “Isaac Ayush Abaela Cremona”. The same is hereby allowed.

12. The declaration of consent and willingness and undertakings by the prospective adoptive parents are on record. Further, the undertakings dated 17th April, 2019 from the Authorized Foreign Adoption Agency “Agenzija Tama” Malta is on page 133 to 136 of the petition. The copy of the General Power of Attorney in favour of the authorized functionary of the petitioner institution is also on record at page 41 to 43.

13. Looking to all the documents that have been placed before me, I think it would be in the interest of the child if he is adopted by the proposed Adopters. I, therefore, do not find any impediment in granting the reliefs sought for.

14. In view of this, the petition is allowed in terms of prayer clause (a), (b) and (c) which read thus : -

> (a) This Court may be pleased to appoint the Adoption as adoptive parents of the person of male minor Ayush now in the care and custody of the petitioners: MSWC Asha Sadan, Asha Sadan Marg, Umerkhadi, Mumbai-400 009.

(b) That the Adoption be granted leave by this Hon'ble Court to remove Ayush outside the jurisdiction of this Hon'ble Court; and

(c) That the petitioners/Adopters be granted leave to apply to the Municipal Authorities to issue Birth Certificate of the minor Ayush showing the first adopter CARLOS ABELA as the adoptive father and his wife the second adopter MARUSKA ABELA CREMONA as the adoptive mother respectively.

15. The Judges order is also separately signed.

16. It is directed that the petitioner institution should obtain a further undertaking from the adoptive parents that they shall not give the minor child for further adoption without the prior leave of this Court. Once this undertaking is obtained the same shall be filed on the record of this Court.

17. The Adoption petition is disposed of in the aforesaid terms.

(B.P. COLABAWALLA, J.)